IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

Crl.MC.No. 201 of 2003(A)

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CC.416/2002 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

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PETITIONER: ACCUSED NO.2

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V.N.RAMACHANDRAN NAIR,
AGED 52 YEARS, S/O.P.NARAYANAN KUNJI,
ASST.MANAGER, (RETIRED), APPOLO TYRES LTD.,
KALAMASSERY, NOW RESIDING AT VARIKKAT HOUSE,
G.K.PILLAI ROAD, PERUMBAVOOR - 683 547.

BY ADV. SRI.O.F.JUSTIN

RESPONDENTS: COMPLAINANT,ACCUSED NO.1 AND STATE OF KERALA

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1. NEW BHARATH TYRES, KACHERIPADY,
BANERJI ROAD, ERNAKULAM, REPRESENTED BY ITS
MANAGING PARTNER, MOHAN ZACHARIA MATHEW.

2. BONEY VARGHESE, NILAN ENTERPRISES,
35/587, JANATHA JUNCTION, PALARIVATTOM,
ERNAKULAM.

3. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.B.N.SHIVSANKAR
BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.M.C.201/2002

ORDER ON CRL.M.P.NO.200/2002 IN CRL.M.C.NO.201/2002

DISMISSED

8.10.2007 SD/- K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.A. TO JUDGE

**K.R.UDAYABHANU, J**

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Crl.M.C.No.201 of 2003

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Dated this the 8th day of October, 2007

**O R D E R**

The petitioner who is the second accused in C.C.No. 416/2002 in the court of Judicial First Class Magistrate-II, Kochi has sought for getting quashed the proceedings against him.

2. As pointed out, as per Annexure A-I complaint, the allegation is that the second respondent herein, who is A1, purchased tyres from the complainant firm and issued the impugned cheque for Rs.15,761/- which when presented got dishonoured for want of funds in the account of the second respondent/A1. Offence under Section 138 of the Negotiable Instrument Act has been taken cognizance by the court below. The allegation is that both the accused conspired to perpetuate the offence. Considering the fact that the court has taken cognizance of only the offence under Section 138 of the N.I. Act, I find that the proceedings against the petitioner herein (A2) cannot be sustained.

In the circumstances, the proceedings pending against A2 vide C.C.No.416/2002 in the court of Judicial First Class Magistrate Court-II, Kochi is herewith quashed.

The Crl.M.C. is allowed.

**K.R.UDAYABHANU,**
**JUDGE**

csl